



ADMINISTRATION FOR
CHILDREN & FAMILIES

330 C Street, S.W., Washington DC 20201 | www.acf.hhs.gov

July 3, 2019

Chad Dunkley
President, Minnesota Child Care Association
Chief Executive Officer, New Horizon Academy

Clare Sanford
Govt. Relations Chair, Minnesota Child Care Association
Director of Government & Community Relations,
New Horizon Academy

Dear Mr. Dunkley and Ms. Sanford,

Thank you for your June 14 letter regarding the Minnesota child care subsidy program.

The Consolidated Appropriations Act of 2018 included a \$2.4 billion increase in Child Care and Development Fund (CCDF) Discretionary appropriations over the 2017 levels. This brought the total Federal funding for CCDF in Fiscal Year (FY) 2018 to \$8.1 billion (\$5.2 billion Discretionary and \$2.9 billion Mandatory/Matching). These funding levels were maintained in FY 2019. Minnesota's share of this increase was approximately \$30 million in both FY 2018 and FY 2019 compared to FY 2017—representing more than a 30 percent increase in Federal CCDF funding for Minnesota.

These increased funds were intended to support the full implementation of the Child Care and Development Block Grant (CCDBG) Act of 2014, and ensure that States are fully in compliance with the CCDBG Act. See Information Memorandum CCDF-ACF-IM-2018-03 at <https://www.acf.hhs.gov/occ/resource/ccdf-acf-im-2018-03>. Based on Minnesota's FY2019-2021 CCDF State Plan submittal, the State was placed on corrective action due to non-compliance with a number of Federal CCDF requirements.

Minnesota has until September 30, 2019 to both obligate or commit the CCDF Discretionary funds that were awarded in FY 2018, as well as to complete corrective action plans to come into compliance with the CCDF requirements. Below are answers to your specific questions:

1. If Minnesota does not obligate its new federal funds by 9/30/19, what if any funding does Minnesota stand to lose?

Response: Minnesota will lose any CCDF Discretionary funds awarded in FY 2018 that are not obligated by 9/30/19.

2. Is there any other way to grant a waiver giving Minnesota more time to obligate these funds?

Response: No. The Office of Child Care has limited ability to issue temporary waivers for transitional or legislative reasons (e.g., when a State needs more time because its State legislature has not yet met), or for extraordinary circumstances (such as a natural disaster). Minnesota does not appear to meet these conditions (e.g., it has had adequate opportunity/time to adopt State legislation).

3. Are there any other applicable penalties or fines that Minnesota could face if we fail to obligate these funds by 9/30/19?

Response: No. However, Minnesota could face additional penalties or sanctions for failure to meet other CCDF requirements (such as equal access/payment rates, health and safety training, and enforcement of health and safety requirements). For each year of non-compliance, our agency may apply a penalty of up to four percent of CCDF Discretionary funds for each requirement that the state fails to meet. In addition, we have the authority to withhold all funding, disallow misused funds, disqualify the state from future assistance, or any combination of these options.

4. What happens to funds designated for Minnesota if we lose them through penalties or other action?

Response: The funds will be returned to the Federal Treasury.

5. Is a reimbursement rate at the 25th percentile of current market rates sufficient to comply now and in the future?

Response: The 25th percentile of current market prices is sufficient for now, but will not be sufficient for compliance in the future. It is not a benchmark or a long-term solution to gauge equal access. The Office of Child Care will evaluate all states with low rates and expects to see payment rates continue to move up in future plan cycles. In addition, in instances where the most recent market rate survey indicates that child care prices have increased, states must raise their payment rates based on the current survey (see preamble to the CCDF Final Rule at 81 FR 67512).

6. An option that was popular with legislators ahead of recent fraud reports was to update our rates to the 2018 market survey but decrease the percentile paid (if necessary) to keep all expenses within the new federal allocation. Is this a viable option – could we use the most current market rate survey but at a percentile below the 25th?

Response: No. In order to be removed from corrective action and avoid a potential penalty, Minnesota must raise its base or foundational rates to at least the 25th percentile of the current market rate survey by September 30, 2019.

7. In addition to the equal access provision, are there other areas in which Minnesota is still non-compliant?

Response: Yes. In addition to equal access/payment rates, Minnesota is currently under corrective action for failure to meet CCDF requirements related to consumer and provider education, eligibility determination processes, priority for child care services, services for children experiencing

homelessness, health and safety standards, health and safety training, and enforcement of health and safety requirements.

Thank you for your work on behalf of children and families.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shannon Christian", with a long horizontal flourish extending to the right.

Shannon Christian
Director
Office of Child Care